



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/797,278

03/10/2004

Daniel Reis

REIS2

2934

1444 7590 11/13/2009
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

EXAMINER

BROWN, MICHAEL A

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

11/13/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/797,278	Applicant(s) REIS ET AL.	
	Examiner MICHAEL BROWN	Art Unit 3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-23 is/are pending in the application.
4a) Of the above claim(s) 3 and 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-10 and 12-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10-16-09</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 9, 12, 14-15, 19-20, 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Nicoll '152.

Niclose discloses figures 1-4 a splint for immobilizing and supporting a body part of a human, the splint comprising an inflatable portion (27,28), structured to cover three sides (fig. 18, shows the splint being on three sides of the limb), the splint comprises inflatable tubes (34a-34d), interconnected by non-inflatable parts (33a-33e), for achieving variable degrees of support, stiffness and restriction of movement, the tubes and the non-inflatable parts are made of a flexible material (plastic), having two opposing edges (fig. 2), the (non inflatable part has a first edge connected on the left side of the non-inflatable portion and a second edge connected to the opposite right side of the non-inflatable part), (inflatable tubes 34a has a first edge connected at 34b and a second edge connected before the top 34b, in fig. 5), the splint is constructed to be wrapped around a body part in a circumferential direction (fig. 1), each of the non-inflatable parts is located to extend between two of the inflatable tubes (fig. 2), the inflatable tubes and the non-inflatable portions extend in a direction transverse to the circumferential direction (fig. 1), at least one pressure source (a pump, col. 4, lines 55-60), at least one adjustable member 25, for connecting the splint edges together, the

Art Unit: 3772

splint takes up the shape of the body part (fig. 2), the tightness of the splint on the body part can be controlled by fastening or loosening of the adjustable member, the pressure is controlled by a valve 60, the adjustable member is detachable (the lace 25 is detachable from the splint).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 7-8, 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicoll in view of Dye.

Nicoll discloses in figures 1-4 a splint substantially as claimed. However, Nicoll doesn't disclose ventilation holes in the non-inflatable parts, the splint being made of two layers of nylon which are jointed by soldering means and coated with polyurethane or an adjustment member that is strap made of velcro. Dye teaches in figures 1-7 a splint comprising ventilation holes 44, two layers of nylon (polyester) joined by a soldering means (heat sealing) and a polyurethane coating (a polymer) and an adjustment strap made of velcro. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the ventilation holes as taught by Dye could be incorporated into the non-inflatable parts disclosed by Nicoll in order to use the holes to ventilate the skin to prevent overheating of the skin while wearing the splint. The nylon material would allow the splint to expand to fit different user. The

Art Unit: 3772

polyurethane would protect the nylon and make the splint more durable. It is old and well known that polyurethane is a polymer. The Velcro could be substituted for the lacing because either device can be used to fasten the ends of the splint together.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nicoll in view of Sconce.

Nicoll discloses an inflatable splint, substantially as claimed. However, Nicoll doesn't disclose the splint fitting either the user's arm or leg. Sconce teaches in figures 1-4 an inflatable splint that fits the user's arms or legs. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the inflatable splint disclosed by Nicoll could be fabricated to cover the arm as well as the leg as taught by Sconce in order to be able to apply pressure to either appendage.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims above, and further in view of Porrata.

Porrata teaches in figure 1 a splint comprising a pressure source that is a hand pump 26. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the hand pump as taught by Porrata could be substituted for the pump disclosed by Nicoll because both inflatable sources are interchangeable.

Claims 13 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims above, and further in view of Simons.

Simons teaches in figure 3 loops (66, 67) that act as a suspension strap. It would have been obvious to one having ordinary skill in the art at the time that the

Art Unit: 3772

invention was made that the loops as taught by Simons could be incorporated into the splint disclosed by Nicoll and Dye in order to use the loops to suspend the device. The loops are connected to the outer edge of the device. Consequently they can be connected to the edge of the splint.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL BROWN whose telephone number is (571)272-4972. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/797,278
Art Unit: 3772

Page 6

/Michael Brown/
Primary Examiner, Art Unit 3772